

**REMARKS/ARGUMENTS**

The specification has been revised to make the noted corrections on page 7 as well as deleting paragraph [0005].

Independent Claim 1 has been cancelled without prejudice and resubmitted as new independent Claim 21 and the dependent claims have been amended to overcome the objections and rejections under 35 U.S.C. § 112. Independent Claim 22 replaces cancelled Claim 13. It is believed that all of the claims are now in compliance with 35 U.S.C. § 112.

Claims 1-20 stand rejected as being anticipated by JP 07-291114. It is submitted that the claims as presently amended patentably define over JP '114 for the reasons set forth hereinafter.

Independent Claim 21 doesn't merely call for just detecting the pressure in a closed circuit of a retarder and comparing it with a prescribed range but, rather, claims comparing the actual temporal progression of the detected actuating pressure with a predetermined target temporal progression for the actuating pressure. The advantages of this arrangement are discussed in paragraphs [0003], [0004] and [0006] of the application as filed. JP '114, on the other hand, appears to merely detect a pressure in a closed circuit and then determines whether it is in a prescribed range at which point an alarm is activated. First and second comparison means 47 and 49 compare and judge whether the detection value *m* of the pressure detection means 8 is in the prescribed range. Thus, the comparison of a dynamic temporal progression of the detected pressure with at least one predetermined target temporal progression of the actuating pressure is not present in JP '114.

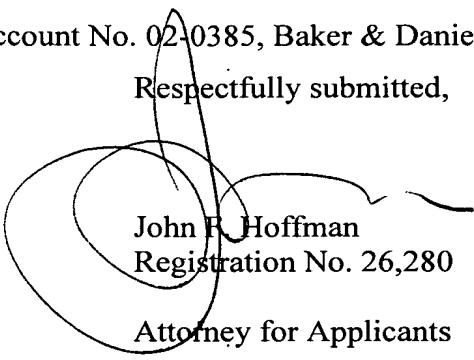
Somewhat similarly, Claim 22 calls for dynamically monitoring the actuating pressure for error detection.

With the amendment of the specification and the claims to obviate the objections and overcome the rejections under Section 112 and with the clarification discussed above distinguishing the claimed subject matter from JP '114, it is submitted that the application is in condition for allowance. However, if the Examiner believes that further issues remain, it is requested that he telephone the undersigned at 260-460-1692.

Application Serial No. 10/554,482  
Amendment dated December 7, 2009  
Response to Office Action dated August 5, 2009

In the event Applicants have overlooked the need for an extension of time, payment of fee, or additional payment of fee, Applicants hereby petition therefor and authorize that any charges be made to Deposit Account No. 02-0385, Baker & Daniels.

Respectfully submitted,



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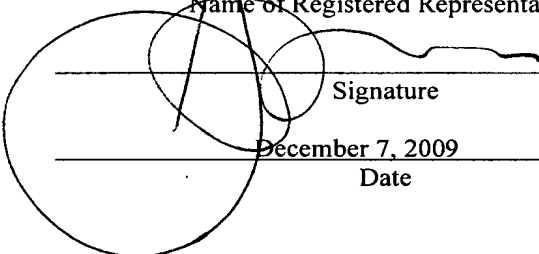
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I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on: December 7, 2009

JOHN F. HOFFMAN, REG. NO. 26,280

Name of Registered Representative



Signature

December 7, 2009

Date